

1 Mark S. O'Connor (011029)
2 BEUS GILBERT McGroder PLLC
3 701 North 44th St.
4 Phoenix, AZ 85008
5 Telephone: (480) 429-3000
6 moconnor@beusgilbert.com

7 Ramon Rossi Lopez (admitted *pro hac vice*)
8 (CA Bar No. 86361)
9 LOPEZ MCHUGH LLP
10 100 Bayview Circle, Suite 5600
11 Newport Beach, CA 92660
12 rlopez@lopezmchugh.com

13 *Attorneys for Plaintiffs*

14 James R. Condo (#005867)
15 Kristine L. Gallardo (#033975)
16 SNELL & WILMER L.L.P.
17 One Arizona Center
18 400 E. Van Buren, Suite 1900
19 Phoenix, AZ 85004-2204
20 Telephone: (602) 382-6000
21 jcondo@swlaw.com
22 kgallardo@swlaw.com

23 Richard B. North, Jr. (admitted *pro hac vice*)
24 Georgia Bar No. 545599
25 Matthew B. Lerner (admitted *pro hac vice*)
26 Georgia Bar No. 446986
27 NELSON MULLINS RILEY & SCARBOROUGH LLP
28 Atlantic Station
201 17th Street, NW, Suite 1700
Atlanta, GA 30363
Telephone: (404) 322-6000
richard.north@nelsonmullins.com
matthew.lerner@nelsonmullins.com

Attorneys for Defendants
C. R. Bard, Inc. and
Bard Peripheral Vascular, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

IN RE: Bard IVC Filters Products
Liability Litigation

No. 2:15-MD-02641-DGC

**JOINT PROPOSED REPORT
REGARDING CASES WHICH HAVE
PREVIOUSLY BEEN DISMISSED, BUT
WHERE THE PLAINTIFFS HAVE
OPTED OUT OF THE SETTLEMENT
AGREEMENT**

(Assigned to the Honorable David G.
Campbell)

Pursuant to the Court's order dated July 16, 2020 (Doc. 21540), the parties are submitting a list of all cases that have previously been dismissed in this MDL under a settlement agreement, but where the plaintiff has subsequently "opted out" of the settlement agreement.

I. THE "OPT OUTS"

Out of the approximately 4,347 cases dismissed without prejudice from the MDL (subject to a tolling agreement), there are presently only 101 plaintiffs who were originally part of a settlement agreement and dismissed their cases, but who have now "opted out" of the settlement. 2 of those plaintiffs' cases were transferred to this Court by the Judicial Panel of Multidistrict Litigation ("JPML"), and 99 of those plaintiffs' cases were directly filed in this MDL. The Court has previously indicated that it will vacate the dismissals of these cases, and transfer or remand the cases to the appropriate court. Pursuant to the Court's direction, the parties are attaching as Exhibit "A" a list of those cases to be included in a Suggestion of Remand to be sent to the MDL. Attached as Exhibit "B" is a list of those cases to be transferred to other jurisdictions pursuant to 28 U.S.C. sec. 1404. As directed by the Court, the parties are separately filing the documents to accompany the remands and transfers.

II. OTHER CASES WITHOUT A FINALIZED SETTLEMENT

In addition to the plaintiffs who have opted out of the settlement, there are a number of additional plaintiffs whose cases have been dismissed, but who have yet to sign a release. Those plaintiffs fall into a number of different categories, as follows:

- By the count of the plaintiffs' counsel, 99 plaintiffs are **still considering the settlement amount** allocated to them.
- 43 plaintiffs are **deceased**, and the plaintiffs' counsel have been unable to identify any known heirs.
- 78 plaintiffs have been completely **unresponsive** to numerous inquiries from the plaintiffs' counsel.
- The plaintiffs' attorneys have been **unable to locate** 107 of the plaintiffs.

1 The parties seek direction from the Court as to how it would like to treat plaintiffs in
2 these categories. Those plaintiffs have not opted out of the settlement, but the possibility
3 exists that they may in the future. The parties would respectfully request a brief telephonic
4 conference with the Court to discuss how these plaintiffs should be handled.

5 RESPECTFULLY SUBMITTED this 23rd day of October, 2020.

6 LOPEZ MCHUGH LLP

NELSON MULLINS RILEY &
SCARBOROUGH, LLP

8 By: /s/ Ramon Rossi Lopez (with permission)

By: /s/ Richard B. North, Jr.

9 Ramon Rossi Lopez(_86361)
10 (admitted *pro hac vice*)
100 Bayview Circle, Suite 5600
Newport Beach, CA 92660

Richard B. North, Jr. (*pro hac vice*)
Georgia Bar No.545599
Matthew B. Lerner (*pro hac vice*)
Georgia Bar No.446986
Atlantic Station
201 17th Street, NW / Suite 1700
Atlanta, GA 30363

11 Mark S. O'Connor (011029)
12 701 North 44th St.
Phoenix, AZ 85008
13 BEUS GILBERT McGroder PLLC

James R. Condo (005867)
Kristine L. Gallardo (033975)
SNELL & WILMER L.L.P.
One Arizona Center
400 E. Van Buren
Phoenix, AZ 85004-2204

14 *Co-Lead/Liaison Counsel for Plaintiffs*

*Attorneys for C. R. Bard, Inc. and
Bard Peripheral Vascular, Inc.*